



General Assembly

February Session, 2010

Raised Bill No. 480

LCO No. 2525

02525_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING COOPERATIVE HEALTH CARE
ARRANGEMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) As used in this
2 section:

3 (1) "Cooperative arrangement" means an agreement among two or
4 more health care providers for the purpose of sharing, allocating or
5 referring patients, personnel, instructional programs, support services
6 or facilities or medical, diagnostic or laboratory facilities or
7 procedures, or negotiating fees, prices or rates with managed care
8 organizations and includes, but is not limited to, a merger, acquisition
9 or joint venture of two or more health care providers, including, but
10 not limited to, physician practice groups;

11 (2) "Health care provider" means: (A) A physician licensed under
12 chapter 370 of the general statutes, (B) a chiropractor licensed under
13 chapter 372 of the general statutes, (C) a podiatrist licensed under
14 chapter 375 of the general statutes, (D) a natureopath licensed under
15 chapter 373 of the general statutes, or (E) an optometrist licensed under

16 chapter 380 of the general statutes;

17 (3) "Certificate of public advantage" means a certificate issued by the
18 Attorney General, authorizing health care providers that are parties to
19 a cooperative arrangement to engage in conduct that could tend to
20 lessen competition in a relevant health care market, upon a showing
21 that such cooperative arrangement meets the criteria set forth in
22 subdivision (2) of subsection (c) of this section; and

23 (4) "Managed care organization" has the meaning set forth in section
24 38a-478 of the general statutes.

25 (b) The Attorney General may issue a certificate of public advantage
26 in accordance with this section. Any two or more health care providers
27 may apply to the Attorney General for a certificate of public advantage
28 to authorize a cooperative arrangement. The application shall include
29 (1) the name of the applicant or applicants, (2) a description of the
30 nature and scope of the cooperative arrangement, (3) a description of
31 any consideration passing to a party under the agreement, (4) evidence
32 in support of the criteria set forth in subdivision (2) of subsection (c) of
33 this section, and (5) such other information as the Attorney General
34 may require. Each application shall be accompanied by a fee of one
35 hundred dollars. Any information of a proprietary nature submitted in
36 such application that meets the standards set forth in subdivision (5),
37 (8) or (10) of subsection (b) of section 1-210 of the general statutes shall
38 be confidential and exempt from public disclosure.

39 (c) (1) The Attorney General shall review each application submitted
40 pursuant to subsection (b) of this section and, not later than ninety
41 days after receipt of such application, issue a written decision
42 approving or denying the application. The decision shall set forth the
43 Attorney General's findings with respect to the benefits and
44 disadvantages described in subdivision (2) of this subsection and a
45 conclusion as to whether the benefits outweigh the disadvantages to
46 the residents of this state. The Attorney General may conduct a
47 hearing, after giving notice to all interested parties, to obtain

48 information necessary in making such decision.

49 (2) In reviewing applications under this section, the Attorney
50 General shall consider the criteria established in subsection (a) of
51 section 19a-637 of the general statutes that the Attorney General deems
52 relevant to the application for a certificate of public advantage and any
53 benefits of such cooperative arrangement, including, but not limited to:
54 (A) Enhancement of the quality of health services to consumers; (B)
55 gains in cost efficiency of providing health services; (C) improvement
56 in utilization of and access to health services and equipment; and (D)
57 avoidance of duplication of health care resources. The Attorney
58 General shall not approve an application for a certificate of public
59 advantage unless the Attorney General finds that the benefits of the
60 proposed cooperative arrangement outweigh the disadvantages,
61 including, but not limited to: (i) The potential reduction in
62 competition; (ii) the adverse impact on quality, access or price of health
63 care services to consumers; and (iii) the availability of arrangements
64 that achieve the same benefits with less restriction on competition.

65 (3) Conduct by health care providers in furtherance of a cooperative
66 arrangement that has received a certificate of public advantage shall
67 not be subject to the provisions of chapter 624 of the general statutes,
68 except that the Attorney General may utilize the powers set forth in
69 section 35-42 of the general statutes when the Attorney General has
70 reason to believe that the approved cooperative arrangement is not
71 performing or providing services as described in the application or in
72 the annual progress report. This section shall not be construed to
73 require a health care provider to obtain a certificate of public
74 advantage in order to enter into a cooperative arrangement, and,
75 absent a certificate of public advantage, the legality of such cooperative
76 arrangement shall be determined by applicable antitrust law.

77 (4) Health care providers in a cooperative arrangement that has
78 received a certificate of public advantage pursuant to this section shall
79 submit an annual progress report to the Attorney General on a form

80 prescribed by the Attorney General. The report shall be accompanied
81 by a fee of one hundred dollars.

82 (5) The Attorney General shall actively supervise any cooperative
83 arrangement authorized pursuant to this section to determine whether
84 the conduct undertaken by the health care providers in furtherance of
85 the cooperative arrangement should continue to be authorized. The
86 Attorney General shall review such conduct through annual progress
87 reports submitted by the health care providers in a cooperative
88 arrangement in accordance with subdivision (4) of this subsection to
89 evaluate whether the conduct is consistent with the application and
90 whether the benefits continue to outweigh the disadvantages. If the
91 Attorney General has reason to believe that the likely benefits no
92 longer outweigh the disadvantages, the Attorney General shall notify
93 the holder of the certificate of public advantage and hold a hearing to
94 determine whether such certificate should be modified or revoked.
95 Such modification or revocation shall take effect ninety days from the
96 mailing of notice of a final decision by the Attorney General. The
97 Attorney General shall not modify or revoke a certificate of public
98 advantage more than three years after the initial issuance of such
99 certificate.

100 (d) Any health care provider denied a certificate of public advantage
101 by the Attorney General pursuant to this section and any holder of a
102 certificate of public advantage that has been modified or revoked by
103 the Attorney General pursuant to subdivision (5) of subsection (c) of
104 this section may appeal therefrom as if such denial, modification or
105 revocation were a contested case within the meaning of chapter 54 of
106 the general statutes.

107 (e) No managed care organization shall refuse to negotiate in good
108 faith with parties to a cooperative arrangement authorized by the
109 Attorney General. Any managed care organization that violates this
110 section shall be subject to a civil penalty of not more than twenty-five
111 thousand dollars per day for each violation. The Attorney General may

112 institute proceedings to enforce the provisions of this section in the
113 superior court for the judicial district of Hartford.

114 (f) A violation of subsection (e) of this section shall be deemed an
115 unfair or deceptive trade practice under chapter 735a of the general
116 statutes.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2010</i>	New section
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Statement of Purpose:

To permit health care providers to enter into cooperative arrangements that would not be subject to certain antitrust laws after approval by the Attorney General, and to require managed care organizations to negotiate in good faith with providers who participate in such arrangements.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]